

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WARREN COUNTY WATER DISTRICT

COMPLAINANT

v.

BOWLING GREEN MUNICIPAL UTILITIES
BOARD AND THE CITY OF BOWLING
GREEN, KENTUCKY

DEFENDANTS

CASE NO. 94-290

ORDER TO SATISFY OR ANSWER

The Bowling Green Municipal Utilities Board ("BGMU") and the city of Bowling Green ("Bowling Green") are hereby notified that they have been named as defendants in a formal complaint filed on August 3, 1994, a copy of which is attached hereto.

Pursuant to 807 KAR 5:001, Section 12, BGMU and Bowling Green are HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 24th day of August, 1994.

ATTEST:

Don M. J. J.
Executive Director

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

RECEIVED

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**PUBLIC SERVICE
COMMISSION**

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF KENTUCKY**

**WARREN COUNTY WATER DISTRICT,)
COMPLAINANT,)**

VS.)

NO. 94-290

**BOWLING GREEN MUNICIPAL)
UTILITIES BOARD, and THE)
CITY OF BOWLING GREEN, KENTUCKY,)
DEFENDANTS.)**

COMPLAINT

The complainant, Warren County Water District (the "District"), files this complaint against the Bowling Green Municipal Utilities Board ("BGMU") and the City of Bowling Green, Kentucky (the "City"), seeking an order:

Declaring that BGMU shall permit the District to connect to an existing 10-inch water main of BGMU, and install a new master metering service point to provide water service to the District at the intersection of Fruit of the Loom Drive and Lovers Lane in Bowling Green, Warren County, Kentucky, in order for the City to provide adequate commercial fire protection in the District's Lovers Lane service area.

THE PARTIES

(1) The District is a water district created pursuant to Chapter 74 of the Kentucky Revised Statutes which is engaged in the business of selling water at retail rates

to customers located within, and without, the city limits of Bowling Green in Warren County, Kentucky. The District is subject to the jurisdiction of the Public Service Commission of Kentucky, pursuant to Chapter 278 of the Kentucky Revised Statutes. The District's post office address is: Warren County Water District, attention Mr. Joe Liles, P. O. Box 1118, Bowling Green, Kentucky 42102-1118.

(2) The City of Bowling Green, Kentucky is an incorporated city located in Warren County, Kentucky. The City seeks to fulfill its obligation to provide commercial fire protection to the businesses located on Lovers Lane within the city limits. The City's post office address is: City of Bowling Green, attention Hon. Johnny Webb, Mayor, P.O. Box 430, Bowling Green, KY 42102-0430.

(3) BGMU is a body corporate duly organized and existing under the laws of the Commonwealth of Kentucky, with its principal place of business located at 801 Center Street, Bowling Green, Kentucky 42101. BGMU is a utility owned and operated by the City. BGMU owns and operates a water treatment plant and supplies water to the District at wholesale rates. BGMU also provides water service to individual customers residing within the City, as does the District. BGMU's post office address is: Bowling Green Municipal Utilities, attention Mr. Eddie Beck, General Manager, P.O. Box 10300, Bowling Green, KY 42102-0300.

JURISDICTION

(4) The Public Service Commission of Kentucky has exclusive jurisdiction over the regulation of utility service. This jurisdiction extends to a city utility such as BGMU when contracting for the sale and supply of water to a PSC-regulated county water district. Simpson County Water District v. City of Franklin, Ky., 872 S.W.2d 460 (1994).

Accordingly, the Kentucky Public Service Commission has exclusive jurisdiction to ensure that BGMU is providing an adequate supply of water to the District.

FACTUAL BACKGROUND

(5) The City is obligated to provide adequate commercial fire protection to the businesses located within the city limits. The minimum water supply needed to supply adequate commercial fire protection to the businesses located in the District's Lovers Lane service area is 600 gallons per minute. Currently, the City is denying occupancy to Siding Sales, Inc., a business concern located in the District's Lovers Lane service area, because it cannot provide adequate commercial fire protection with the current water supply.

(6) At the request of the City's mayor, the Honorable Johnny Webb, the District undertook design engineering to evaluate alternatives for providing water service adequate for commercial fire protection with a minimum flow of 600 gallons per minute to the District's Lovers Lane service area within the city limits of Bowling Green.

(7) The most cost effective alternative is for the District to construct a new line along an unserved portion of Lovers Lane to connect to an existing 10-inch water main of BGMU, and install a new master metering service point at the intersection of Fruit of the Loom Drive and Lovers Lane. The City has advised the District that it would share the cost of construction in order to provide commercial fire protection to this section of Lovers Lane.

(8) BGMU has refused to approve the District's request to install a new master metering service point at the intersection of Fruit of the Loom Drive and Lovers Lane. BGMU's conduct prevents the District from providing the City with an adequate water supply for commercial fire protection. BGMU's conduct prevents the District from

providing adequate service to its customers. Thus, the City is unable to issue an occupancy permit to Siding Sales, Inc.

(9) The respective service areas of BGMU and the District are well established. The District has provided water service to the Lovers Lane area since 1966. The District already provides water service to customers in this particular service area. The District anticipates the supply needs in the Lovers Lane service area will increase steadily in the coming years. The District has presented a feasible cost-effective plan to satisfy the increasing water demands in the Lovers Lane service area.

(10) The District developed three (3) plans to provide increased service to the Lovers Lane service area. The District prepared construction plans and specifications for all three (3) alternatives. After advertising for and receiving competitive construction bids, it is clear that the District's proposal to install a new master metering service point to connect to BGMU's existing line at the intersection of Fruit of the Loom Drive and Lovers Lane is the most cost effective method of providing adequate service to the District's customers. The estimated cost of this proposal is thirty two thousand five hundred dollars (\$32,500). An alternative proposal requires the District to extend a 10-inch line from its existing system across Interstate 65 at a cost of one hundred thirty seven thousand nine hundred five dollars (\$137,905). If the District is required to implement the more costly alternative, all of the District's customers, living in and outside the City, will eventually pay for the project through higher utility rates.

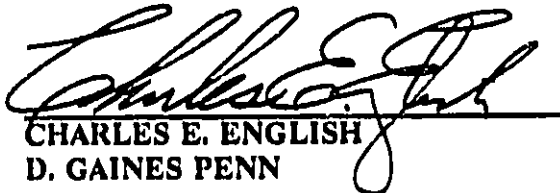
(11) BGMU's refusal to approve the District's request for a master metering service point to connect to the BGMU's existing line at the intersection of Fruit of the Loom Drive and Lovers Lane constitutes an arbitrary and unreasonable lack of service. Further,

the arbitrary and unreasonable action of BGMU adversely affects the District's ability to provide adequate service to its customers.

WHEREFORE, the District prays the Public Service Commission of Kentucky to order BGMU to provide adequate service to the District by permitting it to create a new master metering service point to connect with BGMU's existing line at the intersection of Fruit of the Loom Drive and Lovers Lane in Bowling Green, Warren County, Kentucky, and for all other relief necessary for the District to provide adequate service to its customers in the Lovers Lane service area.

This 1st day of August, 1994.

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